

Judge Robart

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 CHARLES TURNER HABERMANN, )  
 )  
 Defendant. )

NO. CR11-29JLR

GOVERNMENT'S SENTENCING  
MEMORANDUM

The United States of America, by and through Jenny A. Durkan, United States Attorney for the Western District of Washington, and Michael Dion, Assistant United States Attorney, files this Sentencing Memorandum. The Government recommends a sentence of a year and a day of imprisonment.

**I. PROCEDURAL BACKGROUND**

Defendant Charles Turner Habermann pled guilty to one count of Threatening a Federal Official, in violation of Title 18, United States Code, Sections 115(a)(1)(B) and (b)(4), as charged in Count 1 of the Indictment. Sentencing is set for Friday, August 12, 2011, at 10:00.

**II. FACTUAL BACKGROUND**

In the Plea Agreement, Habermann admitted to the following:

Beginning on or about December 9, 2010, and continuing through on or about

1 December 10, 2010, Charles Turner Habermann left two threatening voicemail messages  
2 for United States Congressman James A. McDermott at his office located in downtown  
3 Seattle, Washington. The timing of the threatening voicemail messages left by  
4 Habermann coincided with the debate in the U.S. House of Representatives over a tax and  
5 unemployment insurance bill that was eventually passed by the United States Congress  
6 and signed into law by the President of the United States on December 17, 2010.

7 In one of the messages, Habermann stated the following:

8 Hey I was going to McDermott my name's Charles uh, Habermann, uh my number  
9 is [REDACTED]. I was calling Jim McDermott because I saw him on television  
10 the other night and I realized what a disgusting, filthy, murderous cock-sucker he  
11 was. What a criminal was, the idea that he said that uh, poor people's uh, money,  
12 poor people's money that the Government gives belongs to him. That, that, that,  
13 that reducing taxes on rich people is, is in effect a tax cut in effect, it effected the  
14 Government spending program. Jim, Jim McDermott's uh, theft of tax payer  
15 dollars, the less he steals, means that the, that the less the Government spends. Uh,  
16 I, I, I'd like to remind you McDermott that if you read the constitution all the  
17 money belongs to the people. None of it belongs to Government. Okay! So, if  
18 Jim McDermott says they're spending money on a tax cut, he's a piece of human  
19 dog shit, okay. He's a piece of human filth. He's a liar, he's a communist, he's a  
20 piece of fucking garbage. Thomas Jefferson, James Madison, or George  
21 Washington, Alexander Hamilton, if any of them had ever met uh, uh Jim  
22 McDermott, they would all blow his brains out. They'd shoot him, in the head.  
23 They'd kill him, because he's a piece of, of, of disgusting garbage. He's a piece of  
24 filth. He's a criminal. He advocates stealing people's money to give it to losers.  
25 That's a criminal conspiracy to commit fraud, okay. That is what the  
26 majority of the democratic party engage in every day of every week of every  
27 fucking year because they're scum bags. They are disgusting filthy fucking scum  
28 bags. And you let that fucking scum bag know, that if he ever fucks around with  
my money, ever the fuck again, I'll fucking kill him, okay. I'll round them up, I'll  
kill them, I'll kill his friends, I'll kill his family, I will kill everybody he fucking  
knows. Alright! So if you want to fuck with me, you go ahead but you let that  
fucker know, the next time he fucks around, I'll kill him, okay! Good night and  
good bye, you fucker.

22 During the second voicemail message, Habermann stated the following:

23 My name is Charles Char Habermann, my phone number is [REDACTED].  
24 I'm calling because your congressman is a piece of human garbage. Um,  
25 I'm calling because your congressman is, is a communist. I'm calling  
26 because your congressman is a piece of filth. Um, does he understand when  
27 he says that they're giving money to tax breaks for rich? Does he  
28 understand that, that the wealthy people that, that's their money? They earn  
that money. Has he ever read "Federalist Paper Number Ten"? Has he ever  
read John Lock's "Second Treaties of Government"? Has he ever read the  
of property section of John Lock's "Second Treaties of Government"? No,  
probably not because he's not an intellectual, he doesn't understand the rules  
and the political theory that set up the basis for our Government. That's

1 why he thinks he can steal money from people and give it away to losers  
 2 and get away with it. Well guess what, you're crooked, criminal,  
 3 cock-sucking Jim McDermott will never get away with it. And I'll tell you  
 4 something right now, I'll fucking hunt that guy down and I'll fucking get rid  
 5 of him. Do you understand that? I'll get the fuck rid of him. I'll pay  
 6 people, I'll pay my friends, I, I grew up in Chicago just like your scum bag  
 7 fucking Jim McDermott did. I grew up in downtown Chicago, you  
 8 understand that? Does, does your fucking boy understand that? I grew up  
 9 in Chicago just like him. But guess what, I'm not a criminal like he is, I'm  
 10 not a thief like he is. I don't steal other people's money to give it to losers  
 11 like he does. Your congressman, Jim McDermott is a piece of garbage.  
 12 And I'll tell you something right now, garbage belongs in the trash that's  
 13 exactly where he's gonna end up. You understand that? You understand it  
 14 you fuckers? You worthless stupid Democrat cock-sucking fuckers. You  
 15 think you can steal my money and get away with it? You think you're  
 16 gonna steal my fucking money and get away with it, you fuckers. You  
 17 people are criminal scum bags and I ha, I hate you. I hate Jim McDermott.  
 18 I have your friends, I hate his family, I hate his kids, I hate every,  
 19 everybody fuck...do you know, I could round them all up, you know, I  
 20 could look for them. I got a lot of money, you understand? I got a  
 21 lot of money and I got a lot of friends and that cock-sucker is going down,  
 22 you understand it? Your cock-sucking loser is going down, and guess  
 23 what, tell your fagot fucking friend, I'm from Chicago too, and I fucking  
 24 take care of his ass. Good bye, mother fucker!

25 Habermann made both phone calls from his home in Palm Springs, California.

26 Habermann's goal in leaving the messages was to frighten Congressman McDermott into  
 27 voting the way that Habermann wanted him to vote.

28 During the same time period, Habermann left similar threatening messages for  
 another member of Congress, C.P.

In March of 2010, Habermann left threatening messages for a California Assembly  
 Member. Law enforcement contacted Habermann and warned him to stop making  
 threats.

### III. SENTENCING CALCULATIONS

The Presentence Report correctly calculates the total offense level at 17 and  
 Habermann's criminal history as Category I. The resulting advisory range is 24 to 30  
 months.

### IV. RECOMMENDATION

Using only a phone as a weapon, Charles Habermann threatened and terrorized  
 Congressman James McDermott and his staff. Habermann has admitted that his goal was

1 to frighten the Congressman, and he used violent and vicious language to achieve that  
2 end. Habermann threatened to kill the Congressman. He threatened to kill the  
3 Congressman's family, and friends, and anybody who associated with the Congressman.  
4 Habermann warned that he had enough money to hire an assassin.

5 Habermann did not succeed in frightening the Congressman into changing his  
6 political position. He did succeed in terrifying the public servants who worked in the  
7 Congressman's office. Attached as Exhibits A and B to this Memorandum are victim  
8 impact statements of Darcy Nothnagle and Diane M. Shust, who respectively are the  
9 Congressman's District Director and Chief of Staff. These letters are vivid evidence of  
10 the trauma that Habermann inflicted on innocent people.

11 The defense will no doubt say that Habermann's threats are the harmless rantings  
12 of an angry, emotionally troubled man – empty bluster that would never be backed up by  
13 actual violence. There is some truth to that claim. After a thorough investigation that  
14 consumed the time and resources of the justice system and law enforcement, there is no  
15 sign that Habermann was actually planning to kill anybody.

16 That does not mean, however, that Habermann's threats were harmless. At the  
17 time Habermann made his threats, his victims had no way of knowing whether  
18 Habermann was merely a crank and a loudmouth, or whether he was a determined would-  
19 be assassin. Given our nation's sad history of political violence, the victims  
20 understandably feared the latter. A terrible illustration of their fears came shortly after  
21 Habermann's threats, when a man killed six people while attempting to assassinate  
22 Congresswoman Gabrielle Giffords in Tucson, Arizona.

23 Habermann, of course, is not responsible for the Tucson shooting. But Habermann  
24 is responsible – he is culpable – for capitalizing on real incidents like Tucson, and for  
25 exploiting people's real fears about their safety. Habermann's words traumatized  
26 experienced political workers who are otherwise hardened to anger and rough words. He  
27 took away their feeling of safety and security at work and at home, and left them afraid  
28 for themselves, their co-workers, and even their children. He made them fear that, at any

1 minute, a routine day could be interrupted by a murderous attack. Some staff members  
 2 even thought about quitting their jobs. This were not unintended effects. As Habermann  
 3 admitted, his goal was to create fear.

4 Habermann's crime is particularly inexcusable because he had done it before. In  
 5 March of 2010, Habermann threatened a California assemblyman. The police gave him a  
 6 break and let him off with a warning. Habermann apparently took this leniency for  
 7 license.

8 Regardless of what positions they take on the issues, politicians and the people  
 9 who work for them should not have to fear that they are putting their lives in danger  
 10 simply by going to work and doing their jobs. Violence, and threats of violence, should  
 11 not become part of our political discourse. This Court should send a strong message to  
 12 Habermann and those like him. Accordingly, the Government recommends a sentence of  
 13 a year and a day of imprisonment.

14 The Government also asks that Habermann be remanded to custody at sentencing.

15  
 16 DATED this 4th day of August, 2011.

17 Respectfully submitted,

18  
 19 JENNY A. DURKAN

20 United States Attorney

21  
 22 /s/ Michael Dion  
 23 MICHAEL DION  
 24 Assistant United States Attorney  
 25 WSBA #31239  
 26 700 Stewart Street, Suite 5220  
 27 Seattle, WA 98101-1271  
 28 Telephone: (206) 553-7729  
 Fax: (206) 553-0755  
 E-mail: Michael.Dion@usdoj.gov

CERTIFICATE OF SERVICE

I hereby certify that on August 4, 2011, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to the attorney(s) of record for the defendant.

s/Kiyomi Mathews  
KIYOMI MATHEWS  
Legal Assistant  
United States Attorney's Office  
700 Stewart Street, Suite 5220  
Seattle, Washington 98101-1271  
Phone: 206/553-4228  
FAX: 206/553-0755  
E-mail: kiyomi.mathews@usdoj.gov